

1 PAUL B. BEACH, State Bar No. 166265  
pbeach@lbaclaw.com

2 SCOTT CARON, State Bar No. 227871  
scaron@lbaclaw.com

3 LAWRENCE BEACH ALLEN & CHOI, PC  
100 West Broadway, Suite 1200  
4 Glendale, California 91210-1219  
Telephone No. (818) 545-1925  
5 Facsimile No. (818) 545-1937

6 Attorneys for Defendants  
County of Los Angeles, Los Angeles County Sheriff's Department,  
7 Sheriff Lee Baca, Assistant Sheriff William Stonich, Larry W. Waldie,  
Assistant Sheriff Doyle R. Campbell, Assistant Paul K. Tanaka, and  
8 Division Chief Marc L. Klugman

9  
10 **UNITED STATES DISTRICT COURT**  
11 **CENTRAL DISTRICT OF CALIFORNIA**  
12

13 JULIO ALVARADO, individually, and as  
14 class representative,

15 Plaintiff,

16 vs.

17 WILLIAM BRATTON, et al..

18 Defendants.  
19  
20

) Case No. CV 06-7812 PA (RCx)

) Honorable Percy Anderson

) **ANSWER TO FIRST**  
) **AMENDED COMPLAINT;**  
) **DEMAND FOR JURY TRIAL**  
)  
21

22 COME NOW Defendants COUNTY OF LOS ANGELES, LOS  
23 ANGELES COUNTY SHERIFF'S DEPARTMENT, SHERIFF LEE BACA,  
24 ASSISTANT SHERIFF WILLIAM STONICH, LARRY W. WALDIE,  
25 ASSISTANT SHERIFF DOYLE R. CAMPBELL, ASSISTANT PAUL K.  
26 TANAKA, and DIVISION CHIEF MARC L. KLUGMAN, all in their individual  
27 and official capacities, answering the First Amended Complaint on file herein, for  
28 themselves and for no other Defendants, admit, deny, and allege as follows:

//

1           1.     Answering Paragraphs 1, 6, 7, and 13 through 17, inclusive, of the  
2 First Amended Complaint for Damages, these Defendants do not have sufficient  
3 information or belief to enable them to answer said paragraphs and on that  
4 ground, denies each and every allegation contained therein.

5           2.     Answering Paragraph 4 and 5 of the First Amended Complaint for  
6 Damages, Defendants admit that jurisdiction and venue lie in this District Court  
7 but denies that the acts and/or omissions complained of in fact occurred as alleged  
8 in the First Amended Complaint for Damages.

9           3.     Answering Paragraphs 8 through 12 of the First Amended Complaint  
10 for Damages, these Defendants admit that the County was and is a public entity  
11 organized and existing under the laws of California, and that Defendants Baca,  
12 Waldie, Stonich, Campbell, Tanaka, Jackson and Klugman are or were employees  
13 of the Los Angeles County Sheriff's Department. As to the remainder of the  
14 allegations set forth in Paragraphs 8 through 12 of the First Amended Complaint,  
15 this Defendants do not have sufficient information or belief to enable them to  
16 answer said paragraphs, and on that ground, deny the remainder of the allegations  
17 contained therein.

18           4.     Answering Paragraphs 2, 3 and 18 through 59, inclusive, of the First  
19 Amended Complaint for Damages, these Defendants deny generally and  
20 specifically each and every allegation set forth therein and further denies that  
21 Plaintiff is entitled to an award of damages, or any other relief as a result of any  
22 act or omission by these Defendants.

23 //

24 //

25 //

26 //

27 //

28 //

**FIRST AFFIRMATIVE DEFENSE**

5. Plaintiff's Complaint fails to state a cause of action against Defendants.

**SECOND AFFIRMATIVE DEFENSE**

6. Plaintiff's Complaint fails to state a cause of action against these public entity defendants for, pursuant to *Monell v. Department of Social Services of the City of New York*, 436 U.S. 658, 98 S.Ct. 2018 (1978), there can be no recovery for a federal civil rights violation where there is no constitutional deprivation occurring pursuant to governmental policy or custom.

**THIRD AFFIRMATIVE DEFENSE**

7. The County Sheriff and his subordinates act on behalf of the state, not the County, when engaged in law enforcement activities. Consequently, any policies, practices or customs alleged in the Complaint are not those of the County.

**FOURTH AFFIRMATIVE DEFENSE**

8. Defendants are immune from liability under the Eleventh Amendment to the Constitution of the United States.

**FIFTH AFFIRMATIVE DEFENSE**

9. Plaintiff's Complaint does not state facts sufficient to constitute a cause of action against these Defendants or any defendant under 42 U.S.C. § 1983 because simple negligence pursuant to the United States Supreme Court decision of *Parratt v. Taylor*, 451 U.S. 527, 101 S.Ct. 1908 (1981), is not a federal civil rights violation.

**SIXTH AFFIRMATIVE DEFENSE**

10. Neither a public entity nor a public employee is liable for his act or omission, exercising due care, in the execution or enforcement of any law.

//

//

**SEVENTH AFFIRMATIVE DEFENSE**

11. Neither a public employee nor a public entity is liable for any injury caused by the act or omission of another person.

**EIGHTH AFFIRMATIVE DEFENSE**

12. Neither a public entity nor a public employee is liable for any injury caused by the institution or prosecution of any judicial proceedings within the scope of the public employee's employment.

**NINTH AFFIRMATIVE DEFENSE**

13. Neither a public entity nor a public employee is liable for any injury resulting from his act or omission where the act or omission was the result of the exercise of the discretion vested in him.

**TENTH AFFIRMATIVE DEFENSE**

14. Neither a public entity nor a public employee acting in good faith, without malice, and under the apparent authority of an enactment that is unconstitutional, invalid or inapplicable, is liable for any injury caused thereby, except to the extent that he would have been liable had the enactment been constitutional, valid and applicable.

**ELEVENTH AFFIRMATIVE DEFENSE**

15. Any injury to Plaintiff was due to and caused by the negligence and omissions of Plaintiff to care for himself, which carelessness and negligence and omissions were the proximate cause of the damage, if any, to Plaintiff.

**TWELFTH AFFIRMATIVE DEFENSE**

16. The damages, if any, should be in direct proportion to the fault of these Defendants, if any, as provided by Civil Code §§ 1431 to 1431.5.

**THIRTEENTH AFFIRMATIVE DEFENSE**

17. To the extent that Plaintiff suffered any detriment, such detriment was caused or contributed to by Plaintiff's negligence and damage, if any, should be reduced in direct proportion to his fault.

**FOURTEENTH AFFIRMATIVE DEFENSE**

18. The injuries and damages alleged by Plaintiff, if any, were proximately caused by the negligence, conduct and liability of other persons or entities, and these answering Defendants request that an allocation of such negligence, conduct and liability be made among such other persons or entities, and that, if any liability is found on the part of these Defendants, judgment against these Defendants be only in an amount which is proportionate to the extent and percentage by which these answering Defendants' acts or omissions contributed to Plaintiff's injuries or damages, if at all.

**FIFTEENTH AFFIRMATIVE DEFENSE**

19. The negligence of a third-party or parties was a superseding, intervening cause of Plaintiff's injuries.

**SIXTEENTH AFFIRMATIVE DEFENSE**

20. Plaintiff failed to mitigate his damages.

**SEVENTEENTH AFFIRMATIVE DEFENSE**

21. Each of Plaintiff's state law claims is barred by the absolute privilege of Government Code § 820.2.

**EIGHTEENTH AFFIRMATIVE DEFENSE**

22. The Complaint and individual theories of relief set forth therein are barred by Plaintiff's failure to have complied with the California public entity and public employee claims filing provisions.

**NINETEENTH AFFIRMATIVE DEFENSE**

23. Plaintiff's claims and requests for relief are barred, in whole or in part, by the doctrine of unclean hands.

**TWENTIETH AFFIRMATIVE DEFENSE**

24. Plaintiff's claims and requests for relief are barred, in whole or in part, by the doctrine of laches.

//

**TWENTY-FIRST AFFIRMATIVE DEFENSE**

25. Plaintiff's claims and requests for relief are barred, in whole or in part, by the doctrine of estoppel.

**TWENTY-SECOND AFFIRMATIVE DEFENSE**

26. Plaintiff's claims and requests for relief are barred, in whole or in part, by the doctrine of judicial estoppel.

**TWENTY-THIRD AFFIRMATIVE DEFENSE**

27. Plaintiff's non-economic damages are limited under Proposition 51.

**TWENTY-FOURTH AFFIRMATIVE DEFENSE**

28. Probable cause existed for the arrest and detention of Plaintiff.

**TWENTY-FIFTH AFFIRMATIVE DEFENSE**

29. The actions of these Defendants and their employees in all respects were reasonable, proper, and legal.

**TWENTY-SIXTH AFFIRMATIVE DEFENSE**

30. There is no liability against any peace officer who makes an arrest pursuant to a warrant of arrest regular upon its face where such peace officer acted without malice and in the reasonable belief that the person arrested is the one referred to in the warrant.

**TWENTY-SEVENTH AFFIRMATIVE DEFENSE**

31. All answering Defendants are immune pursuant to California Civil Code § 43.55.

**TWENTY-EIGHTH AFFIRMATIVE DEFENSE**

32. All answering Defendants are immune pursuant to California Penal Code § 847.

**TWENTY-NINTH AFFIRMATIVE DEFENSE**

33. All answering Defendants are immune pursuant to California Code of Civil Procedure § 262.1.

//



**THIRTIETH AFFIRMATIVE DEFENSE**

34. All answering Defendants are immune pursuant to the doctrine of quasi-judicial immunity, under California and federal law, and pursuant to *Clemmons v. City of Long Beach*, 283 Fed. Appx. 487 (9th Cir. 2008).

**THIRTY-FIRST AFFIRMATIVE DEFENSE**

35. All answering Defendants are immune under California Government Code § 821.6.

**THIRTY-SECOND AFFIRMATIVE DEFENSE**

36. The answering Defendants can incur no liability and are immune from suit under California Government Code § 69922.

**THIRTY-THIRD AFFIRMATIVE DEFENSE**

37. The answering Defendants can incur no liability and are immune from suit under California Penal Code § 4015.

**THIRTY-FOURTH AFFIRMATIVE DEFENSE**

38. The individual Defendants are immune from suit as to Plaintiff's claims under 42 U.S.C. § 1983 pursuant to the doctrine of qualified immunity.

**THIRTY-FIFTH AFFIRMATIVE DEFENSE**

39. These answering Defendants did not violate Plaintiff's Fourth Amendment rights.

**THIRTY-SIXTH AFFIRMATIVE DEFENSE**

40. These answering Defendants did not violate Plaintiff's Fourteenth Amendment rights.

**THIRTY-SEVENTH AFFIRMATIVE DEFENSE**

41. These answering Defendants did not commit any act with respect to Plaintiff by means of threats, intimidation or coercion.

//

//

//

1 WHEREFORE, Defendants COUNTY OF LOS ANGELES, LOS  
2 ANGELES COUNTY. SHERIFF'S DEPARTMENT, SHERIFF LEE BACA,  
3 ASSISTANT SHERIFF WILLIAM STONICH, LARRY W. WALDIE,  
4 ASSISTANT SHERIFF DOYLE R. CAMPBELL, ASSISTANT PAUL K.  
5 TANAKA and DIVISION CHIEF MARC L. KLUGMAN, all in their individual  
6 and official capacities, pray that Plaintiff take nothing by the way of his  
7 Complaint and that these Defendants herein recover their costs and such other and  
8 further relief as the Court may deem just and proper.

9  
10 Dated: April 6, 2009

LAWRENCE BEACH ALLEN & CHOI, PC

11  
12 By 

13 Scott E. Caron

14 Attorneys for Defendants

15 COUNTY OF LOS ANGELES, LOS ANGELES  
16 COUNTY SHERIFF'S DEPARTMENT,  
17 SHERIFF LEE BACA, ASSISTANT SHERIFF  
18 WILLIAM STONICH, LARRY W. WALDIE,  
19 ASSISTANT SHERIFF DOYLE R.  
20 CAMPBELL, ASSISTANT PAUL K. TANAKA,  
21 and DIVISION CHIEF MARC L. KLUGMAN  
22  
23  
24  
25  
26  
27  
28



**DEMAND FOR JURY TRIAL**

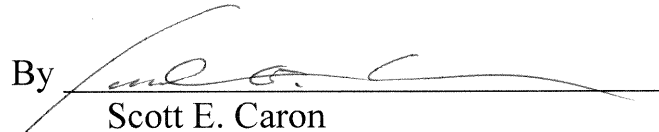
TO THE CLERK OF THE ABOVE-ENTITLED COURT:

PLEASE TAKE NOTICE that Defendants COUNTY OF LOS ANGELES, LOS ANGELES COUNTY. SHERIFF'S DEPARTMENT, SHERIFF LEE BACA, ASSISTANT SHERIFF WILLIAM STONICH, LARRY W. WALDIE, ASSISTANT SHERIFF DOYLE R. CAMPBELL, ASSISTANT PAUL K. TANAKA and DIVISION CHIEF MARC L. KLUGMAN, all in their individual and official capacities, demand a trial by jury pursuant to Federal Rules of Civil Procedure, Rule 38(b) and Local Rule 38-1.

Dated: April 6, 2009

LAWRENCE BEACH ALLEN & CHOI, PC

By



Scott E. Caron

Attorneys for Defendants

COUNTY OF LOS ANGELES, LOS ANGELES COUNTY SHERIFF'S DEPARTMENT, SHERIFF LEE BACA, ASSISTANT SHERIFF WILLIAM STONICH, LARRY W. WALDIE, ASSISTANT SHERIFF DOYLE R. CAMPBELL, ASSISTANT PAUL K. TANAKA, and DIVISION CHIEF MARC L. KLUGMAN

**PROOF OF SERVICE**

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I, Brooke Moyer, am employed in the aforesaid County, State of California; I am over the age of 18 years and not a party to the within action; my business address is 100 W. Broadway, Suite 1200, Glendale, CA 91210.

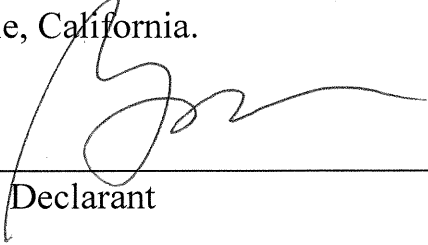
On April 6, 2009, I served the foregoing **ANSWER TO FIRST AMENDED COMPLAINT; DEMAND FOR JURY TRIAL** on the interested parties in this action by placing a true copy thereof, enclosed in a sealed envelope, addressed as follows:

Donald W. Cook Mann & Cook 3435 Wilshire Blvd., Suite 2900 Los Angeles, CA 90010	Attorneys for Plaintiff
Surekha A. Pessis Deputy City Attorney 600 City Hall East 200 North Main Street Los Angeles, California 90012-4129	Attorneys for Defendants City of Los Angeles, et al.

BY U.S. MAIL As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice, it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at Glendale, California, in the ordinary course of business.

I declare under penalty of perjury under the laws of the United States of America and the State of California that the foregoing is true and correct, and that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

Executed on April 6, 2009, at Glendale, California.

  
 Declarant